

**LEGISLATIVE SERVICES AGENCY  
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington, Suite 301  
Indianapolis, IN 46204  
(317) 233-0696  
<http://www.in.gov/legislative>

**FISCAL IMPACT STATEMENT**

**LS 6262**

**BILL NUMBER:** HB 1222

**NOTE PREPARED:** Nov 26, 2007

**BILL AMENDED:**

**SUBJECT:** Death Taxes.

**FIRST AUTHOR:** Rep. Crouch

**FIRST SPONSOR:**

**BILL STATUS:** As Introduced

**FUNDS AFFECTED:** ☒ **GENERAL**  
☒ **DEDICATED**  
**FEDERAL**

**IMPACT:** State & Local

**Summary of Legislation:** The bill provides that the Inheritance Tax, Indiana Estate Tax, and the Indiana Generation Skipping Transfer Tax do not apply after June 30, 2008.

**Effective Date:** July 1, 2008.

**Explanation of State Expenditures:** The bill could potentially result in a savings to the state from a reduction in staff of the Inheritance Tax Section of the Department of State Revenue (DOR). The November 8, 2007, state staffing table indicates that the Inheritance Tax Division has 9 full-time employees with an annual salary of \$305,360.

**Explanation of State Revenues:** *Summary* - The bill provides that current statutes relating to the Inheritance Tax, Estate Tax, and Generation Skipping Transfer Tax do not apply to: (1) a property interest transferred from the estate of an individual who dies after June 30, 2008; or (2) the estate of an individual who dies after June 30, 2008. The bill could potentially have the following impacts on state revenues.

(1) The bill would eliminate revenue to the state from the Inheritance Tax potentially totaling \$147.5 M annually based on the Revenue Technical Committee's April 7, 2007, forecast. The revenue loss would begin in FY 2010.

(2) The bill could eliminate potential future revenue from the Indiana Estate Tax, provided the repeal of the Federal Estate Tax and the state death tax credit pursuant to the federal Economic Growth and Tax Relief Reconciliation Act of 2001 (EGTRRA) are not made permanent by the U.S. Congress. The potential future revenue loss depends on whether the U.S. Congress acts to make the repeal of the Federal Estate Tax under

EGTRRA permanent, but could total as much as \$20 M to \$25 M based on annual Estate Tax collections immediately prior to the federal law changes.

(3) The bill could eliminate potential future revenue from the Indiana Generation Skipping Transfer Tax under the same circumstances as the Indiana Estate Tax. The revenue loss from elimination of the Generation Skipping Transfer Tax would be minimal. Since FY 1993, the tax reportedly generated no revenue except in FY 2004 (\$31,254) and FY 2005 (\$3,637).

*Background Information - Inheritance Tax:* Since the Inheritance Tax must be paid within 12 months after the decedent's death (within 9 months to receive the 5% early payment discount), the impact of the bill would not be experienced until FY 2010. The estimated impact of the bill on state revenue from the Inheritance Tax is based on the Revenue Technical Committee's FY 2009 forecast (updated April 16, 2007). This forecast estimates FY 2009 Inheritance Tax at \$147.5 M. The estimated revenue loss assumes that Inheritance Tax revenues would otherwise persist at this level in the future.

*Estate Tax:* Under current Indiana statutes, Indiana Estate Tax is owed on the assets of an estate if: (1) Federal Estate Tax is owed on the estate; and (2) the Indiana portion of the state death tax credit applicable to the Federal Estate Tax exceeds the total Indiana Inheritance Tax paid by transferees of the estate. So, the Indiana Estate Tax is equal to the difference between the state death tax credit under the Federal Estate Tax and the Indiana Inheritance Tax. However, under EGTRRA, the state death tax credit was eliminated for estates of decedents who died after December 31, 2004. EGTRRA also repeals the Federal Estate Tax beginning with estates of decedents who die after December 31, 2009. However, all the federal law changes, including the repeal of the Federal Estate Tax are scheduled to sunset on December 31, 2010. Thus, the Federal Estate Tax as it was in 2001 would be in effect for estates of decedents who die after December 31, 2010. This would include the state death tax credit which is the basis for the Indiana Estate Tax and would make the Indiana Estate Tax operative again.

*Generation Skipping Transfer Tax:* Like the Indiana Estate Tax, the Indiana Generation Skipping Transfer Tax is also linked to the federal version of the tax via the federal Generation Skipping Transfer Tax credit. The federal Generation Skipping Transfer Tax is also repealed in 2010 under EGTRRA, with the repeal to sunset on December 31, 2010.

### **Explanation of Local Expenditures:**

**Explanation of Local Revenues: Summary** - The bill provides that current statutes relating to the Inheritance Tax, Estate Tax, and Generation Skipping Transfer Tax do not apply to: (1) a property interest transferred from the estate of an individual who dies after June 30, 2008; or (2) the estate of an individual who dies after June 30, 2008.

It is estimated that the bill would eliminate revenue to counties from the resident Inheritance Tax potentially totaling \$12.7 M annually. The revenue loss would begin in FY 2010. Under the bill, county inheritance tax replacement transfers also would no longer have to be made.

*Background Information* - Counties retain 8% of the Inheritance Tax collected on transfers made by Indiana residents. Counties are guaranteed a statutorily determined amount as determined by the replacement provision established by P.L. 254-1997. The replacement provision was established to replace county

Inheritance Tax revenue lost when the Class A exemption was increased on July 1, 1997. The replacement provision guarantees that each county receives Inheritance Tax revenue equal to the five-year annual average amount of Inheritance Tax received by that county from FY 1991 to FY 1997 excluding the highest and lowest years.

**State Agencies Affected:** Department of State Revenue.

**Local Agencies Affected:** Counties.

**Information Sources:** *State Revenue Forecast* (April 16, 2007). Department of State Revenue, *Quarterly Inheritance Tax Reports*, FY 1993-FY 2007.

**Fiscal Analyst:** Jim Landers, 317-232-9869.